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Representing the United States of America

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLIVEN D. BUNDY,
RYAN C. BUNDY,
AMMON E. BUNDY,
RYAN W. PAYNE,
PETER T. SANTILLI,
MEL D. BUNDY,
DAVE H. BUNDY,
BRIAN D. CAVALIER,
ERIC J. PARKER,
O. SCOTT DREXLER,
RICKY R. LOVELIEN,
STEVEN A. STEWART,
TODD C. ENGEL,
GREGORY P. BURLESON,
JOSEPH D. O'SHAUGHNESSY,
MICAHA L. McGUIRE, and
JASON D. WOODS,

Defendants.

2:16-CR-00046-GMN-PAL

**GOVERNMENT'S PROPOSED
VOIR DIRE**

The United States, by and through the undersigned, and pursuant to this Court's Order of December 13, 2016, (ECF No. 1107), the government respectfully submits its proposed questions to be propounded during *voir dire* of prospective jurors and/ or to be included in a jury questionnaire in the above captioned-matter.

Questions for Proposed Jury Questionnaire

A) *Government Officials Making Charging Decisions*

1) Daniel G. Bogden, United States Attorney, District of Nevada

2) Prosecution Team

a. Assistant United States Attorneys

STEVEN W. MYHRE

NICHOLAS D. DICKINSON

NADIA J. AHMED

b. Special Assistant United States Attorney

ERIN M. CREEGAN

3) Is there anything about your knowledge of these individuals that could prevent you from rendering an impartial verdict based on the evidence admitted in the case and the Court's instructions on the law?

4) Have you read or heard any news accounts about the United States Attorney's Office or the U.S. Department of Justice that could affect your ability to be fair and impartial to either the prosecution or the defense?

a. If so, please describe the nature of what you have read or heard?

b. Would you be able to put aside what you have read or heard and render an impartial verdict based on the evidence admitted in the case and the Court's instructions on the law?

5) Do you have any opinion, favorable or unfavorable, about the United States Attorney's Office or the Department of Justice in general that could affect your ability to render a verdict in this case?

a. If so, please describe the nature of your opinion?

b. Would you be able to put aside your opinion and render an impartial verdict based solely on the evidence admitted in the case and the Court's instructions on the law?

6) Do you have any opinion, favorable or unfavorable, about the Federal Bureau of Investigation that could affect your ability to be fair and impartial in this case?

a. If so, please describe the nature of your opinion?

b. Would you be able to put aside your opinion and render an impartial verdict based solely on the evidence admitted in the case and the Court's instructions on the law?

B) Knowledge of the Case

1) Have you read or heard anything from any source about any of the defendants in case?

a. If so, please describe the source and substance of what you've read or heard?

b. Is there anything about your knowledge about the defendants in this case that could prevent you from rendering an impartial verdict based solely on the evidence admitted in the case and the Court's instructions on the law?

2) Have you read or heard anything from any source about the potential witnesses in this case?

a. If so, please describe the source and substance of what you've read or heard?

1 b. Is there anything about your knowledge about the potential
2 witnesses in this case that could prevent you from rendering an
3 impartial verdict based solely on the evidence admitted in the case and
4 the Court's instructions on the law?

5 3) Have you read or heard anything from any source about any comments
6 made by any state, local, or federal public officials about the defendants or the
7 charges in this case?

8 a. If so, please describe the source and substance of what you've
9 read or heard?

10 _____
11 _____
12 _____

13 b. Is there anything about your knowledge about any comments
14 you may have heard that could prevent you from rendering an
15 impartial verdict based solely on the evidence admitted in the case and
16 the Court's instructions on the law?

17 4) Have you read or heard anything from any source about any comments
18 made by any state, local, or federal public officials about the impoundment of cattle
19 belonging to Cliven Bundy or members of the Bundy Family?
20

1 a. If so, please describe the source and substance of what you've
2 read or heard?

3 _____
4 _____
5 _____

6 b. Is there anything about your knowledge about those comments
7 that could prevent you from rendering an impartial verdict based
8 solely on the evidence admitted in the case and the Court's instructions
9 on the law?

10 5) Have you read or heard anything from any source about any comments
11 made by any state, local, or federal public officials about the propriety of federal use
12 and ownership of public lands in Nevada?

13 a. If so, please describe the source and substance of what you've
14 read or heard?

15 _____
16 _____
17 _____
18 _____

19 b. Is there anything about your knowledge in this regard that
20 could prevent you from rendering an impartial verdict based solely on
21 the evidence admitted in the case and the Court's instructions on the
22 law?

1 **C. Interaction with Law Enforcement and the Criminal Justice System**

2 1) Have you, a family member, or close personal friend, ever been placed
3 under arrest? If so, please describe generally the circumstances.

4 a. What was the general nature of the charge(s)?

5 _____
6 _____

7 b. How were the charges resolved?

8 _____
9 _____

10 c. Is there anything about your experience or knowledge of this
11 event that could cause you to have any bias or animosity toward law
12 enforcement agents, the government in general, or the prosecution
13 team in this case?

14 2) Have you, a family member, or close personal friend, ever been charged
15 with a criminal offense?

16 a. What was the general nature of the charge(s)?

17 _____
18 _____

19 b. How were the charges resolved?

20 _____
21 _____
22 _____

1 c. Is there anything about your experience or knowledge of this
2 event that could cause you to have any bias or animosity toward law
3 enforcement agents, the government in general, or the prosecution
4 team in this case?

5 _____
6 _____
7 _____
8 _____

9 3) Have you, any member of your family, or any close personal friend ever
10 been questioned or interviewed by a law enforcement agent in connection with a
11 criminal investigation.

12 a. Describe the general nature of the investigation and your role
13 or the role of your family member or friend.

14 _____
15 _____
16 _____

17 b. Identify the agency or agencies conducting the investigation.

18 _____
19 _____

20 c. Is there anything about your experience or knowledge of this
21 event that could cause you to have any bias or animosity against law
22 enforcement agents, the government in general, or the prosecution
23 team in this case?

1 _____
2 _____
3 4) During this trial you may hear testimony from a law enforcement
4 officer who acted as an undercover agent. That is, he/she assumed a fictitious
5 identity and had meetings and conversations while employing that fictitious
6 identity.

7 a. Do you have any personal feelings about the testimony of a
8 person who worked as an agent?
9 _____
10 _____

11 b. Do you have any personal feelings about law enforcement's use
12 of video or audio recordings that would prevent you from fairly
13 considering the evidence in this case?
14 _____
15 _____
16 _____
17 _____

18 ***D) Other Interaction with Government Agencies***

19 1) Have you, any member of your immediate family, or any close personal
20 friend, ever made or filed a claim against the United States or any agency of the
21 United States?
22
23
24

1 a. If yes, please describe the general nature of the claim and its
2 current status.

5 b. Is there anything about your experience or knowledge of this
6 claim or its resolution that could cause you to have any bias or
7 animosity against law enforcement agents, the government in general,
8 or the prosecution team in this case?

11 2) Have you, any member of your immediate family, or a close personal
12 friend, been fined administratively by any state or federal agency for any violation
13 of a rule or regulation?

14 a. If yes, please describe the general nature of the alleged
15 violation and the current status of the matter.

b. Is there anything about your experience or knowledge of this claim or its resolution that could cause you to have any bias or animosity against law enforcement agents, the government in general, or the prosecution team in this case?

E) Knowledge of Federal Public Lands or Public Land Management Agencies

1) Have you, any of your family members or close family friends, been employed by or worked with any federal land management agency such as the Bureau of Land Management, United States Park Service, or United States Forest Service?

a. If yes, please describe the nature of the work or employment.

b. Is there anything about that experience that affects your ability to remain fair and impartial throughout a trial of this matter?

2) Have you, any family member or close family friends, ever applied for a permit to use federal public lands in any, including for commercial or recreational use.

1 a. If so, please describe the general nature of the use applied for.

2 _____
3 _____

4 b. If there anything about that experience that could prevent you
5 from remaining fair and impartial to both the government and the
6 defendant throughout the trial of this case?

7 3) Have you, any family member, or close family friend, ever been cited
8 for trespass or any violation of federal regulations related to the use of federal public
9 lands?

10 a. If so, please describe the general nature of the violation?

11 _____
12 _____

13 b. Is there anything about that experience that could prevent you
14 from remaining fair and impartial to both the government and the
15 defendants throughout the trial of this case.

16 4) Do you, any family member or close family friend, hold any strong
17 views, one way or the other, about federal ownership of federal public
18 lands?
19

20 a. If yes, please describe generally the nature of your beliefs.

21 _____
22 _____
23 _____

1 b. Is there anything about that experience that could prevent you
2 from remaining fair and impartial to both the government and the
3 defendants throughout the trial of this case.

4 5) Have you or any family member currently, or ever, engaged in cattle
5 ranching as an occupation?

6 a. If so, please describe generally the nature of the ranching.
7 _____

8 _____

9 b. If so, has any of the ranching operations involved grazing cattle
10 on federal public lands?

11 6) Have you or any family member currently, or ever, been involved in a
12 land ownership dispute of any kind with any person or entity, including the federal
13 government.

14 a. If so, please describe generally the nature of the dispute.
15 _____

16 _____

17 _____

18 _____

19 7) Have you or any family member or close friend ever received any
20 specialized training or instruction related to federal rules or regulations related to
21 the use or management of federal public lands?

1 a. If yes, please describe generally the nature of your beliefs.

2 _____
3 _____
4 _____

5 b. Is there anything about that experience that could prevent you
6 from remaining fair and impartial to both the government and the
7 defendants throughout the trial of this case.

8 ***F. Affiliations***

9 1) Do you, any member of your family, or close personal friend, belong to
10 or associate with any group or organization that describes itself, or refers to itself,
11 as militia, or as a militia group or organization?

12 a. If so, please describe generally the nature of your association.

13 _____
14 _____
15 _____
16 _____

17 2) Do you, or any family members or close personal friends belong to or
18 associate with any group or organization that proclaims, states, or subscribes to the
19 belief that citizens of a state or county are not bound to follow federal law, that is,
20 the laws of the United States?

21 If so, please explain:

22 _____
23 _____
24 _____

1 3) Do you, or any family members or close personal friends belong to or
2 associate with group or organization that proclaims, states, or subscribes to the
3 belief that federal law is only applicable to citizens who enter into a personal
4 contract with the federal government?

5 If so, please explain:
6 _____
7 _____
8 _____

9 4) Do you, or any family members or close personal friends hold an opinion
10 or belief that federal law enforcement officers should not be authorized to enforce
11 federal law within a state or county except as authorized by the local Sheriff?
12

13 If so, please explain:
14 _____
15 _____
16 _____

17 5) Do you, or any family members or close personal friends hold an opinion
18 or belief that federal law enforcement officers should not be authorized to carry
19 firearms within a state or county except as authorized by the local Sheriff?

20 If so, please explain:
21 _____
22 _____
23 _____
24

1 6) Do you, or any family members or close personal friends hold an opinion
2 or belief that federal courts, that is, United States District Courts, do not have
3 jurisdiction over citizens of a state or county?

4 If so, please explain:

5 _____
6 _____
7 _____

8 7) Do you, or any family members or close personal friends hold an opinion
9 or belief that the federal government should **not** enact laws that prohibit the use of
10 a firearm during the commission of a crime?

11 If so, please explain:

12 _____
13 _____
14 _____
15 _____

16 8) Do you, or any family members or close personal friends hold an opinion
17 or belief that agencies of the federal government overreach their authority and act
18 outside the Constitution of the United States?

19 If so, please explain:

20 _____
21 _____
22 _____

1 9) Do you, or any family members or close personal friends hold an opinion
2 or belief that citizens of a state or county are independent sovereigns who cannot
3 be made subject to the laws of the United States?

4 If so, please explain:

5 _____
6 _____
7 _____

8 10) From highest to lowest (with 5 being the highest) please rank the
9 sources you consult for information about current events (Please place a "0" next to
10 those that you do not consult at all):

11 _____ Local TV Stations
12 _____ Internet/Social Media
13 _____ Radio
14 _____ Local Newspapers
15 _____ National News Sources (newspapers, network/cable TV)

17 ***G. Ability to Follow the Law***

18 1) Have you received any specialized training or education related to the
19 practice of law or the criminal or civil justice system?

20 a. If so, please describe the general nature of your training or
21 education?

22 _____
23 _____

1 b. Is there anything about your training or knowledge that would
2 affect your ability to be fair and impartial toward either the defendant
3 or the government?

4 **Additional Questions to be Propounded to the Venire During**
5 **Voir Dire**

6 1) At the conclusion of the trial, the Court will instruct on the law that
7 you should apply to the facts of the case. Is there anything about your beliefs or
8 opinions about federal law that could prevent you from following the law as the
9 Court instructs you?

10 2) Do you hold any beliefs or opinions about the government of the United
11 States, United States Courts, or the defendants that would prevent you from fairly
12 and impartially judging the evidence in this case?

13 3) At various times during the case, the Court will instruct you about the
14 applicable law. It is your obligation to follow the Court's instructions about the law,
15 whether you agree with the law or not. If you were to find that you disagreed with
16 the law as given to you by this Court, would you nonetheless be able to follow that
17 law and reach a verdict by applying that law to the evidence?

18 4) Is there anything about your political beliefs or affiliations generally
19 that could prevent you from following the law as the Court instructs you?

20 5) Does anyone feel or believe that one person should never stand in
21 judgment of another person even when serving on a jury?
22

1 6) Does anyone feel that because of his or her individual beliefs or
2 personality, that you will be unable to deliberate or will refuse to deliberate with
3 your fellow jurors in order to reach a verdict in this case?

4 7) Does anyone because of their personal beliefs about the criminal
5 justice system believe that he or she must render a verdict one way or the other
6 regardless of the evidence presented at trial and regardless of the law as I instruct
7 you?

8 8) Are you able to set aside any and all personal beliefs and information
9 about federal laws and/or regulations and reach a verdict in this case based solely
10 on the law as the Court instructs you?

11 9) If you find the defendants guilty of one or more counts of the
12 indictment, it will be the duty of the Court to determine any punishment. The law
13 does not permit you, as a juror, to consider the issue of potential punishment when
14 arriving at a verdict in this case. Will you be willing and able to set aside any
15 consideration of punishment and render a fair and impartial verdict based solely on
16 the evidence presented at trial and the law as I instruct you.

17 10) You may hear the testimony of co-defendants, cooperating with the
18 government pursuant to a plea agreement, introduced as evidence by the
19 government. Does anyone have any strong feelings, one way or the other, in
20 connection with the use of witnesses who are cooperating with the government in
21 exchange for a possible reduction of their sentence, which may prevent you from
22 rendering a fair and impartial verdict in this case?
23
24

1 11) Do you know of any reason why you may be prejudiced for or against
2 the Federal Government, for or against any witness, or for or against the Defendant,
3 because of the nature of the charges or otherwise?

4 12) In this case one or more of the defendants may have chosen to represent
5 themselves at trial, which is their right. I have advised the defendants that they
6 may face disadvantages in representing themselves since they are not trained as
7 attorneys. The law, however, does not allow me to assist a defendant representing
8 himself or to relax the rules that apply to the trial of this case. Likewise, the
9 attorneys for the United States must treat a defendant representing himself as if
10 he were trained as an attorney. Lastly, the fact that a defendant has chosen to
11 represent himself must not enter into your deliberations. Will the fact that a
12 defendant is representing himself cause you to be more or less sympathetic to one
13 side or the other such that you cannot render a fair and impartial verdict?

14 13) If a defendant chooses to represent himself, the court has the power to
15 appoint standby counsel. The role is very limited. Is there anyone who would be
16 distracted by standby counsel's role in this case? Is there anyone who would be less
17 than fair and impartial if the defendant chooses to seek no assistance, little
18 assistance, or a great deal of assistance from standby counsel? Would anyone be
19 distracted if the defendant, during the trial, ceased to represent himself and asked
20 his standby counsel to begin representing him?

21 14) At the conclusion of the trial, the Court will instruct on the law that
22 you should apply to the facts of the case. Is there anything about your beliefs or
23
24

1 opinions about federal law that could prevent you from following the law as the
2 Court instructs you?

3 15) At various times during the case, the Court will instruct you about the
4 applicable law. It is your obligation to follow the Court's instructions about the law,
5 whether you agree with the law or not. If you were to find that you disagreed with
6 the law as given to you by this Court, would you nonetheless be able to follow that
7 law and reach a verdict by applying that law to the evidence?

8 **WHEREFORE**, the government respectfully requests that the Court
9 propound the questions submitted above at voir dire or in any pre-screening
10 questionnaire. The government further seeks leave to amend its list of proposed
11 questions and/or offer further questions as responses become known to the
12 government.

13 **DATED** this 19th day of December, 2016.

14 Respectfully,

15 DANIEL G. BOGDEN
16 United States Attorney

17 //s//

18

STEVEN W. MYHRE
19 NICHOLAS D. DICKINSON
20 NADIA J. AHMED
Assistant United States Attorneys
21 ERIN M. CREEGAN
Special Assistant United States Attorney

22 *Attorneys for the United States*

CERTIFICATE OF SERVICE

I certify that I am an employee of the United States Attorney's Office. A copy of the foregoing **GOVERNMENT'S PROPOSED VOIR DIRE** was served upon counsel of record, via Electronic Case Filing (ECF).

DATED this 19th day of December, 2016.

/s/ Steven W. Myhre

STEVEN W. MYHRE
Assistant United State Attorney